

ORIGINAL

**FIRST AMENDMENT TO LOAN AGREEMENT BY AND AMONG
THE CITY OF SAN JOSE, THE CITY OF SAN JOSE FINANCING AUTHORITY
AND
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE
RELATED TO THE SUPPLEMENTAL EDUCATION REVENUE AUGMENTATION
FUND**

This First Amendment to Loan Agreement ("First Amendment") is made and entered into this 10th day of May, 2011, by and among the City of San Jose, a municipal corporation ("City"), the City of San Jose Financing Authority, a public body, corporate and politic, duly organized and existing under the laws of the State of California ("Authority"), and The Redevelopment Agency of the City of San Jose, a public body, corporate and politic ("Agency").

RECITALS

WHEREAS, the Agency is presently engaged in redevelopment activities in various redevelopment project areas; and

WHEREAS, on July 29, 2009, the Governor signed the State budget, including AB4x26 which requires redevelopment agencies in the State make payment to a Supplemental Educational Revenue Augmentation Fund ("SERAF"), and

WHEREAS, the Agency's SERAF obligation is \$62,247,530 in FY 2009-2010 and approximately \$12,815,668 in FY 2010-2011; and

WHEREAS, AB26x4 and subsequent clarifying legislation, allows the Agency to make its SERAF payments with funds borrowed from the Low-Mod Housing Fund, as long as the Agency finds that there are insufficient other moneys to meet the SERAF payment requirement, and such borrowed funds are repaid within five years from date of borrowing; and

WHEREAS, on February 23, 2010, the Agency Board and City Council found that due to insufficient other monies, the Agency would need to pay the SERAF, in part, with funds borrowed from the Low-Mod Housing Fund and approved a plan to finance the SERAF payments through a loan from the Low-Mod Housing Fund, and from the idle moneys of certain City special funds; and

WHEREAS, also on February 23, 2010, the City Council, the Board of Directors of the City of San Jose Financing Authority, and Agency Board authorized the City Manager, the Authority Executive Director, and Executive Director of the Agency to negotiate and execute a loan agreement, to provide funds to the Agency for the purpose of making the SERAF payments; and

WHEREAS, on May 6, 2010 the City, Authority and Agency entered into the Loan Agreement which anticipated that the Authority would issue commercial paper prior to the due date for each of the SERAF payments (May 10, 2010, and May 10, 2011) to loan to the Low - Mod Housing Fund, to replace funds loaned by the Low-Mod Fund to the Agency to make the SERAF payment.

WHEREAS, in order to reduce borrowing costs, City and Agency staff have recommended that since the Low-Mod Housing Fund currently has sufficient funds on hand to loan to the Agency, those funds should be loaned to the Agency to make the payment, and delaying the issuance of commercial paper until funding is needed for future Low-Mod Housing projects.

NOW THEREFORE, the City, Authority and Agency hereby agree to amend the Loan Agreement as follows:

SECTION 1. Section A of the Loan Agreement, entitled "Financing Authority Loan to Housing Fund" is hereby amended to read in full as follows:

A. FINANCING AUTHORITY LOAN TO HOUSING FUND.

1. Initial Loan Amount. Upon execution, and subject to the terms of this Agreement, the Authority agrees to make and the City agrees to accept a loan in the amount of \$25,000,000.00 (the "Initial Loan Amount") to be paid in two installments as follows:
 - a. First Installment in the amount of \$12,000,000 by May 10, 2010.
 - b. Second Installment in an amount not to exceed \$13,000,000 by May 10, 2011.
2. Additional Loan Amounts. Throughout the term of this Agreement, the Authority will make additional funds available to the City as needed to replenish the Low-Mod Housing Fund for draws made to pay Associated Costs as defined in Paragraph A. 5 below. Such additional funds are estimated to be approximately \$9,000,000 ("Additional Loan Amount"). The Initial Loan Amount, together with the Additional Loan Amounts, is referred to as the "Authority Loan".
3. Use of Loan Proceeds. The City shall deposit the Authority Loan proceeds into the Low-Mod Housing Fund, and shall use the proceeds only to fund low and moderate income housing activities, which include, but are not limited to, the development of affordable multi-family housing projects, loans for housing rehabilitation, teachers' housing loans and other eligible homebuyers' housing loans and eligible Low-Mod Housing

Fund administrative costs. In the event that the SERAF payment is no longer required to be made by the Agency, due to either a change in legislation or by a final order of a court of competent jurisdiction ("Change in Law"), then the Authority will not be obligated to make any installment of the Loan following the effective date of such Change in Law.

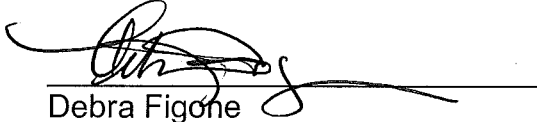
4. Sources of Loan Proceeds. The Authority shall issue City of San José Financing Authority's Lease Revenue Commercial Paper Notes in the amounts required to provide proceeds to make the installments set forth in paragraph 1.a and b. above.
5. Repayment Obligations.
 - a. The City shall repay the Authority, from the Low-Mod Housing Fund, the principal amount of the Authority Loan, which includes Associated Costs, consisting of the following:
 - i. Third party issuance costs, letter of credit fees, ongoing third party administrative costs, and other third party costs associated with the Authority Commercial Paper issued pursuant to this Agreement.
 - ii. Interest at the actual interest rate paid by the Authority on the notes issued pursuant to this Agreement for as long as the Notes remain outstanding.
 - iii. Fees to the City for loan origination and annual compliance.
 - b. The City's obligation to repay the Authority Loan from the Low Mod Fund shall be contingent on the Agency's repayment of the SERAF Loan as set forth below.
6. City Discretion to Borrow from Authority. Notwithstanding the above, in the event that the City, in its discretion, determines that it has sufficient Low-Mod Housing Funds to loan to the Agency without borrowing commercial paper proceeds from the Authority, the Authority may delay the issuance of commercial paper until the City determines that funding is needed for future Low-Mod Housing projects.

Executed by the City, Authority and Agency on the day and year first above written.

CITY OF SAN JOSE

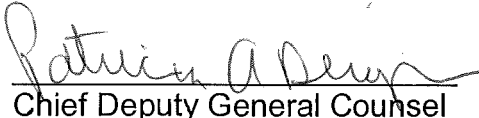
Approved to form:

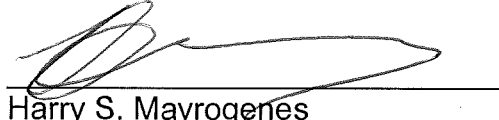

Chief Deputy City Attorney


Debra Figone
City Manager

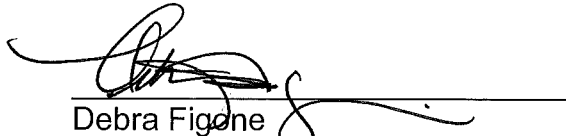
Approved to form:

THE REDEVELOPMENT AGENCY
OF THE CITY OF SAN JOSE


Chief Deputy General Counsel


Harry S. Mavrogenes
Executive Director

THE CITY OF SAN JOSE FINANCING
AUTHORITY


Debra Figone
Executive Director